

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TENNESSEE
3 GREENEVILLE

4 UNITED STATES OF AMERICA, DOCKET NO. CR-2-17-12
5 GOVERNMENT, .
6 VS. GREENEVILLE, TN
7 JONATHAN ANDY LOGAN DISHNER, APRIL 16, 2018
8 DEFENDANT. 1:37 P.M.
9
10

11 TRANSCRIPT OF MOTION HEARING
12 BEFORE THE HONORABLE J. RONNIE GREER
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 FOR THE GOVERNMENT: U.S. DEPARTMENT OF JUSTICE
16 OFFICE OF U.S. ATTORNEY
17 J. GREGORY BOWMAN, AUSA
 220 WEST DEPOT STREET, SUITE 423
 GREENEVILLE, TN 37743

18 FOR THE DEFENDANT:

19 LAW OFFICE OF JERRY J. FABUS, JR.
20 JERRY J. FABUS, JR., ESQ.
 4136 BRISTOL HIGHWAY, SUITE 1
 JOHNSON CITY, TN 37601

21 COURT REPORTER:

22 KAREN J. BRADLEY
23 RPR-RMR
24 U.S. COURTHOUSE
 220 WEST DEPOT STREET
 GREENEVILLE, TN 37743

25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
 PRODUCED BY COMPUTER.

1 (CALL TO ORDER OF THE COURT AT 1:37 P.M.)

2 THE COURT: GOOD AFTERNOON.

3 ALL RIGHT. MS. HOPSON, WOULD YOU CALL THE
4 FIRST CASE, PLEASE.

5 THE CLERK: USA VERSUS JONATHAN ANDY LOGAN
6 DISHNER, CASE NUMBER CR-2-17-12.

7 THE COURT: ALL RIGHT. MR. DISHNER HAS FILED A
8 MOTION SEEKING THE APPOINTMENT OF NEW COUNSEL IN THIS
9 CASE. MR. FABUS, HAVE YOU DISCUSSED THE MOTION WITH
10 MR. DISHNER?

11 MR. FABUS: YOUR HONOR, I HAVEN'T HAD ANY FACE-
12 TO-FACE COMMUNICATION WITH HIM SINCE I DELIVERED THE
13 PAPERS TO THE JAIL AND HE BECAME MAD THAT DAY. THAT VISIT
14 DIDN'T LAST TWO OR THREE MINUTES. HE SAID I WAS FIRED
15 THAT DAY. HE HAD FIRED ME TWO OR THREE WEEKS BEFORE, AND
16 I HAD KEPT WORKING ON IT, HE WAS JUST FRUSTRATED, AND THEN
17 HE WOULD CALL AND APOLOGIZE. I HAVEN'T ATTEMPTED TO SPEAK
18 TO HIM SINCE BECAUSE THAT DAY WAS, IT WAS -- I COULDN'T
19 EVEN TALK, IT WAS JUST HIM YELLING AND CUSSING, AND I JUST
20 LEFT IT AT THAT.

21 NOW, I HAVEN'T FILED A MOTION TO WITHDRAW. I
22 SPOKE WITH DAVID LEONARD. IT WAS NOT ANY DIFFERENT -- HIS
23 INTERACTIONS WITH MR. LEONARD WEREN'T ANY DIFFERENT THAN
24 HIS WITH ME, SO I JUST LOOK AT IT AS IT'S HIM BEING
25 FRUSTRATED WITH THE SYSTEM. I'M THE ONE PERSON HE CAN

1 LASH OUT AT, WHICH IS UNFORTUNATE BECAUSE I'M THE ONE
2 PERSON REALLY TRYING TO HELP HIM; BUT, YOU KNOW, IF YOU'RE
3 WONDERING IF IT'S IRREPARABLE, FROM MY POINT OF VIEW, I
4 HAVE HAD SOME REALLY DIFFICULT CLIENTS. I HAD ONE LAST
5 YEAR WHEN I HAD THAT BENCH TRIAL, THAT GUY WAS A NIGHTMARE
6 TO DEAL WITH, YOU SAW ME STILL DO EVERYTHING I COULD AND
7 GOT HIM UNDER THE GUIDELINE RANGE. SO FROM MY POINT OF
8 VIEW IT DOESN'T AFFECT MY ABILITY TO REPRESENT HIM, IT'S
9 JUST WHETHER HE WANTS TO BE PART OF THE PROCESS OR NOT.

10 THE COURT: ALL RIGHT. THANK YOU.

11 MR. DISHNER, COME UP TO THE PODIUM, PLEASE.

12 I'VE READ THE HANDWRITTEN MOTION YOU FILED WITH
13 THE COURT, BUT TELL ME WHY YOU WANT NEW COUNSEL APPOINTED.

14 THE DEFENDANT: WELL, SIR, YOUR HONOR, THIS IS,
15 THIS IS THE REASON, I GUESS, WHY ME AND MR. FABUS HAS HAD
16 A FEW HEATED ARGUMENTS, I WILL ADMIT TO THAT. LIKE I'VE
17 EXPLAINED TO YOU, THIS IS MY LIFE, AND I'M STILL, YOU
18 KNOW, ME AND MY OTHER LAWYER, ME AND HIM HAD A HEATED
19 ARGUMENT BECAUSE HE WENT AND SPOKE TO MR. LEONARD AFTER,
20 YOU KNOW, HE'S BEEN OFF MY CASE; AND I EXPLAINED TO HIM I
21 DIDN'T FEEL LIKE THAT WAS RIGHT BECAUSE IT WAS THE
22 TRANSCRIPTS I WANTED, AND HE COME TO ME AND SAID THAT HE
23 WENT AND TALKED TO HIM, HE DIDN'T FEEL LIKE HE SHOULD HAD
24 TO GET THE TRANSCRIPTS. I THINK HIS WORDS WAS HE BELIEVED
25 MR. LEONARD, THAT HE WASN'T GOING TO GET THE TRANSCRIPTS,

1 THAT HE KNEW, HE KNEW HIM THIS LONG THAT HE BELIEVED HIM;
2 SO THAT'S WHY I COME -- THAT'S WHY I GOT SO UPSET AND TOLD
3 HIM IF THAT'S HOW, YOU KNOW, IF HE WAS GOING TO GO TO MY
4 OLD LAWYER AND HE WAS FRIENDS WITH HIM LIKE THAT, I WOULD
5 JUST GET ANOTHER LAWYER.

6 THE COURT: YOU KNOW YOU CAN'T JUST FIRE
7 MR. FABUS; DON'T YOU?

8 THE DEFENDANT: WELL, I UNDERSTAND THAT, I
9 UNDERSTAND. THAT'S WHERE I WENT WRONG, BUT THIS IS --

10 THE COURT: AND YOU UNDERSTAND THAT MR. LEONARD
11 AND MR. FABUS TOGETHER ARE TWO OF THE MOST SEASONED
12 ATTORNEYS ON OUR CJA PANEL; DO YOU UNDERSTAND THAT?

13 THE DEFENDANT: YES, SIR; YES, SIR.

14 THE COURT: DOES IT SUGGEST ANYTHING TO YOU
15 ABOUT YOUR INTERACTIONS WITH THEM THAT YOU CAN'T GET ALONG
16 WITH EITHER OF THEM?

17 THE DEFENDANT: WELL, THIS IS THE PROBLEM, SIR.
18 JUST HERE RECENTLY MR. FABUS -- THIS IS WROTE OUT FOR YOU,
19 I'M GOING TO READ IT TO YOU. I TOLD YOU I CAN'T READ THAT
20 GOOD, BUT I'M GOING TO READ IT TO YOU.

21 IT STARTS OFF, YOUR HONOR, THANK YOU FOR YOUR
22 TIME. I'M ASKING, AS YOU KNOW I ALREADY FILED A MOTION,
23 I'M ASKING FOR MY PROCEEDING TO BE POSTPONED TODAY, ASKING
24 THE COURT TO APPOINT ME NEW COUNSEL DUE TO THE FACTS MY
25 PREVIOUSLY APPOINTED COUNSEL, MR. FABUS AND MR. LEONARD,

1 HAVE NOT JUST, JUST, JUSTLY REPRESENTED ME BY, BY ME
2 BREAKING ATTORNEY-CLIENT CONFIDENTIALITY -- THAT'S THE WAY
3 I FEEL -- AND DELIVERING, WHICH MR. FABUS, DELIVERING MY
4 LEGAL DOCUMENTATION, PAPERWORK, PLEA BARGAIN, MY PLEA
5 BARGAIN, CLOTHING, MY PLEA BARGAIN, STATEMENTS -- I GUESS
6 DID YOU DELIVER MY TRANSCRIPTS?

7 THE COURT: YOU TALK TO ME, MR. DISHNER.

8 THE DEFENDANT: I DON'T KNOW WHAT ALL IT WAS
9 OTHER THAN MY PLEA BARGAINS. IT WAS MY PLEA BARGAIN, MY
10 TRANS -- I REALLY, IT WAS ALL MY MOTION FOR DISCOVERY. IT
11 WAS WIDE OPEN. HE GIVE IT TO THE SECRETARY UP FRONT AT
12 THE JAIL OPENED UP. IT WAS UNSEALED. THEY BROUGHT IT TO
13 ME TO SIGN AT GREAT HOURS. IT WENT THROUGH NUMEROUS
14 PEOPLE'S HANDS. I REFUSED TO SIGN. JERRY LAWS BROUGHT IT
15 TO ME. CAPTAIN LOWE WENT THROUGH IT. THE WOMAN UP FRONT
16 TOOK IT. AFTER, YOU KNOW, I REFUSED TO SIGN FOR IT, HE
17 CALLED MR. FABUS, SAID, PLEASE COME GET THIS, YOU KNOW YOU
18 SHOULDN'T DO THIS. THEY HAD DISCUSSION. HE COME BACK,
19 TOLD ME WHAT WAS SAID. YOU CAN TALK TO HIM ABOUT THAT,
20 IT'S ON RECORD, AND HE SAID HE'D TESTIFY TO IT WHENEVER IT
21 COMES RIGHT DOWN TO IT. I SAID ALL RIGHT. TWO DAYS LATER
22 HE BROUGHT MORE PAPERWORK, I'M GUESSING IT'S MY
23 TRANSCRIPTS.

24 THE COURT: YOU DIDN'T LOOK AT IT?

25 THE DEFENDANT: I DIDN'T SIGN FOR IT BECAUSE --

1 THE COURT: THAT WASN'T MY QUESTION.

2 THE DEFENDANT: IT WAS OPENED UP.

3 THE COURT: DID YOU LOOK AT WHAT WAS IN THE
4 ENVELOPE?

5 THE DEFENDANT: IT WASN'T IN AN ENVELOPE,
6 SIR.

7 THE COURT: WELL, DID YOU LOOK AT WHAT WAS IN
8 THE PAPERS?

9 THE DEFENDANT: (DEFENDANT MOVES HEAD SIDE TO
10 SIDE).

11 THE COURT: ALL RIGHT. THEN HOW DO YOU KNOW
12 THAT SOME ATTORNEY-CLIENT PRIVILEGE WAS VIOLATED --

13 THE DEFENDANT: WELL, I KNOW, I KNOW --

14 THE COURT: -- IF YOU DIDN'T LOOK AT THE
15 PAPERS?

16 THE DEFENDANT: I KNOW THE MOTIONS FOR
17 DISCOVERY BECAUSE IT WAS MY, IT WAS MINE --

18 THE COURT: WELL, A MOTION IS GOING TO BE
19 PUBLIC RECORD. ANYBODY CAN GO INTO OUR CM-ECF SYSTEM AND
20 LOOK AT IT. I'M ASKING YOU WHAT IT IS THAT WAS PRIVILEGED
21 COMMUNICATION THAT YOU THINK WAS DELIVERED THERE TO
22 SOMEBODY THAT SHOULDN'T HAVE GOT IT?

23 THE DEFENDANT: I'M TALKING ABOUT EVERYTHING
24 THAT I'VE BEEN WRITING BACKWARDS AND FORTH TO MY OTHER
25 LAWYER AND EVERYTHING --

1 THE COURT: WE'RE NOT TALKING ABOUT MR. LEONARD
2 HERE, I'VE ALREADY RELIEVED MR. LEONARD. I WANT TO KNOW
3 ABOUT MR. FABUS.

4 DEFENDANT: WELL, I AIN'T SURE. LIKE I SAID,
5 HE DIDN'T -- NOTHING HAS BEEN --

6 THE COURT: NOW, MR. DISHNER, LISTEN TO ME.
7 YOU MADE AN ALLEGATION HERE THAT YOUR ATTORNEY MR. FABUS
8 HAS VIOLATED THE ATTORNEY-CLIENT PRIVILEGE, AND YOU'RE
9 STANDING THERE TELLING ME THAT YOU DON'T EVEN KNOW WHAT
10 THESE DOCUMENTS WERE --

11 THE DEFENDANT: I'M TELLING YOU THOSE WERE --

12 THE COURT: -- IS THAT WHAT YOU'RE TELLING ME?

13 THE DEFENDANT: -- MY DOCUMENTS, MY DOCUMENTS.

14 THE COURT: BUT IF YOU DIDN'T LOOK AT THEM, HOW
15 DO YOU KNOW THAT?

16 THE DEFENDANT: WHAT I WROTE TO MY OTHER LAWYER
17 WAS IN MY PAPERWORK THAT MY FIANCEE DROPPED OFF TO HIM. I
18 KNOW WHAT I PUT IN MY PAPERWORK. THAT'S WHAT I'M TRYING
19 TO EXPLAIN TO YOU, SIR, SHE GIVE THEM TO HIM. I COULDN'T
20 TAKE THEM TO THE OTHER JAIL WITH ME, SIR. I KNOW WHAT I
21 WROTE TO MR. LEONARD ABOUT MY CASE. IT'S THERE. IT'S
22 PERTAINING TO MY CASE.

23 THE COURT: IF YOU DIDN'T LOOK, HOW DO YOU KNOW
24 IT WAS THERE?

25 THE DEFENDANT: BECAUSE MY FIANCEE TOOK IT TO

1 HIM AND GIVE IT TO HIM.

2 THE COURT: MR. DISHNER, DID YOU NOT WANT
3 MR. FABUS TO OBTAIN YOUR FILE FROM PRIOR COUNSEL?

4 THE DEFENDANT: I DON'T UNDERSTAND, SIR.

5 THE COURT: WELL, I MEAN, IT MAKES PERFECT
6 SENSE TO ME THAT ONE OF THE FIRST THINGS MR. FABUS WOULD
7 DO WHEN HE WAS APPOINTED TO REPRESENT YOU WAS GET YOUR
8 FILE FROM MR. LEONARD WHO HAD PREVIOUSLY REPRESENTED YOU,
9 SO WHY DO YOU OBJECT TO THAT?

10 THE DEFENDANT: OBJECT TO WHAT? I'M OBJECTING
11 THAT HE BROUGHT MY PAPERWORK OPENED UP TO THE JAIL. IT'S
12 MY LEGAL WORK. THAT'S WHAT I'M OBJECTING TO.

13 THE COURT: ALL RIGHT, MR. FABUS --

14 THE DEFENDANT: IT'S ILLEGAL FOR HIM TO DO
15 THAT.

16 THE COURT: -- WHAT'S HE TALKING ABOUT?

17 MR. FABUS: WELL, AND THAT'S WHY I WAS GOING TO
18 CLEAR IT UP, JUDGE. HIS GIRLFRIEND CALLED ME A COUPLE OF
19 DAYS AFTER I WAS APPOINTED.

20 THE DEFENDANT: THAT'S WHAT I WAS TRYING TO
21 EXPLAIN.

22 THE COURT: MR. DISHNER, ONE AT A TIME.

23 MR. FABUS: AT SOME POINT HE HAD -- SOMEHOW SHE
24 HAD GOTTEN A BUNCH OF PAPERWORK MR. LEONARD MUST HAVE
25 SENT, OKAY. SHE GAVE IT TO ME JUST IN A BAG. I LOOKED AT

1 IT. IT LOOKED LIKE ALL LEGAL PAPERWORK. WHEN I TOOK IT
2 TO THE FRONT OF THE JAIL, I ASKED THEM AND SAID, THIS CAME
3 FROM A THIRD PARTY, IT'S HIS LEGAL PAPERWORK, DO I GIVE IT
4 TO HIM OR DO YOU GUYS STILL HAVE TO CHECK IT TO MAKE SURE
5 THERE ISN'T -- AND SOMEBODY COULD PUT A SUBOXONE STRIP OR
6 SOMETHING ON THE BACK OF SOMETHING, JUDGE. SO I ASKED
7 THEM. THEY SENT THE CAPTAIN UP, SHE SAID, WE HAVE TO GO
8 THROUGH AND SEARCH IT, WE WON'T READ IT. I STOOD THERE
9 AND WATCHED THEM FOR A COUPLE OF MINUTES. THEY PUT GLOVES
10 ON, THEY JUST PATTED -- THEY SAT THERE AND WENT THROUGH A
11 SACK OF PAPER LIKE THIS CHECKING EVERY PAGE. THEY DIDN'T
12 READ IT. I DIDN'T STAY THERE THE WHOLE TIME AND WATCH ALL
13 THAT; BUT WHILE I WAS WAITING FOR, TO GO BACK AND SEE HIM,
14 I PROBABLY TALKED WITH HER FOR ABOUT FIVE MINUTES, AND
15 JUST ASKING ABOUT WHAT THEIR POLICY WAS, THEY SAID THEY
16 ALWAYS CHECKED THAT WHEN IT'S COMING IN. ALL I DID WAS
17 ASK BECAUSE I WANTED TO MAKE SURE I DIDN'T BREAK ANY JAIL
18 PROTOCOL.

19 THE COURT: ALL RIGHT, MR. DISHNER, IS THAT
20 WHAT YOU DID, YOU ASKED YOUR GIRLFRIEND TO PICK UP PAPERS
21 FROM MR. LEONARD? IS THAT WHAT YOU DID?

22 THE DEFENDANT: SIR, SHE PICKED THEM UP FROM
23 THE JAIL BECAUSE THEY WOULDN'T LET ME TAKE THEM WHEN I
24 WENT TO SALEM.

25 THE COURT: OKAY, SO THESE WERE DOCUMENTS YOU

1 HAD IN YOUR POSSESSION THAT THE JAIL TOOK FROM YOU WHEN
2 YOU WERE TRANSFERRED?

3 THE DEFENDANT: YES, SIR.

4 THE COURT: AND YOUR GIRLFRIEND PICKED THEM UP?

5 THE DEFENDANT: UH-HUH. YES, SIR.

6 THE COURT: ALL RIGHT, AND DELIVERED THEM TO
7 MR. FABUS, WHO THEN DELIVERED THEM TO THE JAIL?

8 THE DEFENDANT: MR. FABUS DELIVERED -- YES, MR.
9 FABUS BROUGHT THEM TO THE JAIL.

10 THE COURT: WHAT MAKES YOU THINK THAT IS
11 SOMEHOW A VIOLATION OF ATTORNEY-CLIENT PRIVILEGE?

12 THE DEFENDANT: I MEAN, MY DOCUMENTS THAT I
13 WROTE TO MR. LEONARD, EVERYTHING THAT I'VE SAID TO HIM IN
14 CLIENT, YOU KNOW, LIKE PERSONAL, PERSONAL STUFF THAT I'VE
15 SAID ABOUT MY CASE TO MR. LEONARD, IF I WANT TO GO TO
16 TRIAL, IF SOMEBODY MIGHT HAVE READ MY STUFF, IF I WANT TO
17 GO TO TRIAL, SOMEBODY THAT WORKS AT THAT JAIL, SOME OF
18 THEIR FAMILY COULD BE AT MY TRIAL ON MY -- ON THE TRIAL,
19 SOMEBODY COULD HAVE READ MY CASE, SOMETHING ABOUT MY CASE
20 THAT I WROTE TO MR. LEONARD.

21 THE COURT: WELL, FOR THAT MATTER YOUR
22 GIRLFRIEND COULD HAVE BEEN CALLED AS A WITNESS; RIGHT?

23 THE DEFENDANT: YES, SIR. WELL, I MEAN --

24 THE COURT: I MEAN, YOU -- NOTHING -- WHEN YOU
25 TURNED IT OVER TO HER, IT'S NOT PRIVILEGED. SHE'S NOT A

1 LAWYER. SHE'S CERTAINLY NOT YOUR LAWYER.

2 THE DEFENDANT: BUT THAT'S NOT, YOU KNOW, WE'RE
3 NOT TALKING ABOUT MY GIRLFRIEND, I'M TALKING ABOUT THE
4 JAIL.

5 THE COURT: I'M TALKING ABOUT YOUR GIRLFRIEND,
6 MR. DISHNER.

7 THE DEFENDANT: RIGHT. WELL, I'M NOT, YOU
8 KNOW, I'M TALKING ABOUT THE JAIL.

9 THE COURT: I'M GOING TO TELL YOU SOMETHING,
10 MR. DISHNER, I'VE APPOINTED TWO OF THE BEST LAWYERS I'VE
11 GOT TO REPRESENT YOU. YOU CAN'T GET ALONG WITH EITHER
12 ONE.

13 THE DEFENDANT: I'M NOT SAYING I DON'T GET
14 ALONG WITH HIM, I'M SAYING I THOUGHT IT WAS ILLEGAL, SIR.
15 I THINK IT'S ILLEGAL THAT -- THAT'S WHAT -- IT SCARED ME
16 IS WHAT I, WHAT -- IT SCARED ME THAT THEY HAD IT OVER
17 THERE FOR EIGHT HOURS IS WHAT IT WAS HERE.

18 THE COURT: MR. DISHNER, TO TELL YOU THE HONEST
19 TRUTH, I DON'T CARE WHAT YOU THINK IS LEGAL, OKAY.

20 THE DEFENDANT: OKAY.

21 THE COURT: NOW, IF I APPOINT YOU ANOTHER
22 LAWYER AND YOU CAN'T GET ALONG WITH THAT LAWYER AND YOU
23 CURSE THAT LAWYER, YOU'RE GOING TO BE REPRESENTING
24 YOURSELF IN THIS CASE, DO YOU UNDERSTAND THAT? I AM NOT
25 GOING TO LET YOU HAVE THESE OUTBURSTS AGAINST COUNSEL,

1 CURSE AT THEM, MAKE IT DIFFICULT FOR THEM TO REPRESENT YOU
2 AND THEN ALLOW YOU TO COME IN HERE TO COMPLAIN ABOUT THAT.
3 YOU UNDERSTAND?

4 THE DEFENDANT: WELL, IF I AIN'T DOING NOTHING
5 WRONG, SIR, YOU LEAVE HIM ON MY CASE. IF HE DIDN'T DO
6 NOTHING WRONG, JUST LEAVE HIM ON MY CASE. IF I'M IN THE
7 WRONG, I'M IN THE WRONG.

8 THE COURT: YOU KNOW, IF HE HAD BROUGHT
9 DOCUMENTS THAT HE GOT FROM YOUR GIRLFRIEND TO THE JAIL --

10 THE DEFENDANT: I WAS WRONG.

11 THE COURT: -- IN A SEALED ENVELOPE, THEY STILL
12 WOULD HAVE OPENED IT.

13 THE DEFENDANT: IN FRONT OF ME AND, IN FRONT,
14 AND --

15 THE COURT: WELL, THEY OPEN LEGAL MAIL IN FRONT
16 OF YOU; RIGHT?

17 THE DEFENDANT: YES, IN FRONT OF ME.

18 THE COURT: NOT MAIL DELIVERED BY A NON-LAWYER
19 THIRD PARTY.

20 THE DEFENDANT: RIGHT, SIR, THEY --

21 THE COURT: DO YOU UNDERSTAND THAT,
22 MR. DISHNER?

23 THE DEFENDANT: YES, SIR. YES, SIR. THEY
24 STILL HAVE TO GO IN FRONT OF ME, IN FRONT OF ME. IT DON'T
25 MATTER WHO DELIVERS THEM, THEY HAVE TO LOOK AT IT IN FRONT

1 OF ME. YOU KNOW, BY LAW, LEGAL MAIL, IT DON'T MATTER WHO
2 BRINGS IT TO THE JAIL, THEY HAVE TO GO LOOK AT IT IN FRONT
3 OF ME.

4 THE COURT: LISTEN TO ME, MR. DISHNER. YOU'RE
5 DOING A LOT OF TALKING AND NO LISTENING. IF THESE
6 DOCUMENTS CAME FROM YOUR GIRLFRIEND, THEY ARE NOT
7 COMMUNICATIONS BETWEEN YOU AND YOUR LAWYER; DO YOU
8 UNDERSTAND THAT? BECAUSE SHE'S NOT YOUR LAWYER.

9 THE DEFENDANT: I UNDERSTAND THAT, SIR; BUT HE
10 HAD THEM BROUGHT TO ME TO GO THROUGH THEM TO CHECK THEM,
11 THAT'S WHAT I'M SAYING. IT WAS MINE AND DAVID LEONARD'S
12 STUFF, SHE JUST PICKED THEM UP FROM THE JAIL BECAUSE I
13 COULDN'T TAKE THEM WITH ME. SHE'S NOT A LAWYER. SHE
14 DIDN'T KNOW WHAT THEY WAS, JUST ME AND HIM AND DAVID
15 LEONARD DOES. THAT'S WHAT I'M SAYING. I AIN'T --

16 THE COURT: DO YOU HAVE ANY OTHER COMPLAINTS
17 ABOUT MR. FABUS?

18 THE DEFENDANT: (SHAKES HEAD FROM SIDE TO
19 SIDE).

20 THE COURT: HAS HE FAILED TO FILE SOME MOTION
21 THAT YOU THOUGHT OUGHT TO BE FILED?

22 THE DEFENDANT: JUST GETTING TRANSCRIPTS.

23 MR. FABUS: THEY'RE AT THE JAIL.

24 THE COURT: TRANSCRIPTS HAVE BEEN PREPARED.

25 THE DEFENDANT: IF THAT WAS AT THE JAIL, THAT'S

1 WHAT I'M SAYING, IF THEY WAS DROPPED OFF AT THE JAIL,
2 IT'S -- IF THEY WAS DROPPED OFF AT THE JAIL, THAT'S
3 ANOTHER THING, SO --

4 THE COURT: WELL, YOU'RE LOSING ME, WHAT'S
5 WRONG WITH THAT?

6 THE DEFENDANT: NOTHING, NOTHING. IF THEY'RE
7 DROPPED OFF AT THE JAIL, THAT'S --

8 THE COURT: HAS HE DONE ANYTHING ELSE THAT YOU
9 THINK WAS INEFFECTIVE ASSISTANCE?

10 THE DEFENDANT: NO. SO THEY'RE AT THE JAIL?

11 MR. FABUS: THEY'RE AT THE JAIL, I DROPPED THEM
12 OFF THE DAY --

13 THE DEFENDANT: I DIDN'T SIGN FOR THEM BECAUSE
14 THEY WAS OPENED UP TOO, SO.

15 MR. FABUS: THE DAY I FILED THE MOTION I
16 DROPPED THEM OFF BECAUSE YOU'D ASKED --

17 THE DEFENDANT: I JUST WANT TO LET THAT NOTE ON
18 THE RECORD THAT THEY WAS DROPPED OFF OPEN.

19 THE COURT: ARE YOU GOING TO STOP THESE
20 OUTBURSTS AGAINST YOUR LAWYER?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: STOP CURSING AT HIM?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: COOPERATE WITH HIM?

25 THE DEFENDANT: YES, SIR.

1 THE COURT: MR. DISHNER, HERE'S THE PROBLEM,
2 WHEN YOU RELEASE THOSE DOCUMENTS TO SOME THIRD PARTY, THEY
3 ARE NO LONGER PRIVILEGED.

4 THE DEFENDANT: YES, SIR.

5 THE COURT: AND BEYOND THAT, YOU CAN'T SHOW ANY
6 HARM AT ALL --

7 THE DEFENDANT: YES, SIR.

8 THE COURT: -- THAT'S COME TO YOU AS A RESULT
9 OF WHAT HAPPENED HERE --

10 THE DEFENDANT: OKAY.

11 THE COURT: -- BECAUSE YOU DON'T EVEN KNOW WHAT
12 WAS IN THE ENVELOPE OR THE BAG, WHATEVER IT WAS.

13 THE DEFENDANT: OKAY.

14 THE COURT: WHEN IS THE HEARING ON THE PENDING
15 MOTION SET?

16 LAW CLERK BERRY: THE MOTION TO WITHDRAW?

17 THE COURT: THE MOTION TO WITHDRAW.

18 LAW CLERK BERRY: IT'S NOT BEEN SET YET.

19 THE COURT: AND IS THAT WHAT THE TRANSCRIPT IS,
20 THE TRANSCRIPT OF THE CHANGE OF PLEA HEARING?

21 MR. FABUS: WHAT WAS THAT, YOUR HONOR?

22 THE COURT: IS THIS TRANSCRIPT WE'RE TALKING
23 ABOUT THE TRANSCRIPT OF THE CHANGE OF PLEA HEARING?

24 MR. FABUS: THE CHANGE OF PLEA AND THE MOTION
25 TO WITHDRAW WAS HEARD IMMEDIATELY BEFORE IT.

1 THE COURT: SO ARE WE READY TO HAVE A HEARING
2 ON THE MOTION TO WITHDRAW THE PLEA?

3 MR. FABUS: YES, JUDGE. THE GOVERNMENT HAS
4 FILED THEIR RESPONSE. IT'S RIPE TO BE HEARD.

5 THE COURT: ALL RIGHT, MR. DISHNER, TO THE
6 EXTENT THE ATTORNEY-CLIENT PRIVILEGE HERE HAS BEEN
7 DAMAGED, IT'S BECAUSE OF YOUR ACTIONS.

8 THE DEFENDANT: YES, SIR.

9 THE COURT: EVEN IF THERE WERE SOME SORT OF
10 PRIVILEGED COMMUNICATION AMONG THE DOCUMENTS DELIVERED BY
11 YOUR GIRLFRIEND, MR. FABUS DIDN'T VIOLATE ANY ATTORNEY-
12 CLIENT PRIVILEGE. YOUR OUTBURSTS, YOUR ANGER, YOUR
13 CURSING DIRECTED TOWARD YOUR COURT-APPOINTED COUNSEL IS
14 MISPLACED AND IT HAS TO STOP.

15 BASED ON WHAT YOU'VE SAID TO ME HERE TODAY AND
16 WHAT YOU WROTE IN THIS MOTION, I DON'T SEE ANY BASIS FOR
17 REPLACING MR. FABUS. HE HAS HANDLED CASES THAT WERE VERY
18 DIFFICULT IN THIS COURT BEFORE, HE HAS REPRESENTED CLIENTS
19 WHO DIDN'T COOPERATE WITH HIM, HE HAS REPRESENTED CLIENTS
20 WHO WERE VERY DIFFICULT; BUT TAKE TO HEART WHAT I SAID TO
21 YOU EARLIER, I WILL NOT TOLERATE THESE KINDS OF OUTBURSTS
22 AGAINST COUNSEL.

23 THE DEFENDANT: YES, SIR.

24 THE COURT: I WON'T TOLERATE YOU CURSING
25 COUNSEL; AND IF IT HAPPENS AGAIN, MR. DISHNER, YOU'RE

1 GOING TO FIND YOURSELF REPRESENTING YOURSELF.

2 THE DEFENDANT: YES, SIR. IT WON'T HAPPEN
3 AGAIN.

4 THE COURT: ALL RIGHT, SIR. THE MOTION IS
5 DENIED.

6 OH, BEFORE YOU LEAVE, WE'RE NOT DONE WITH THE
7 HEARING, BUT YOU MAY SIT DOWN. LET'S SET THIS MOTION TO
8 WITHDRAW THE GUILTY PLEA HEARING. POSSIBLE DATES ARE
9 APRIL 25 AT 9:00, APRIL 30 AT 1:30 OR MAY 30 AT 1:30.
10 COUNSEL, WHEN ARE YOU AVAILABLE?

11 MR. FABUS: WHAT TIME WAS MAY 30TH, AT 9:00?

12 THE COURT: 1:30.

13 MR. FABUS: AT 1:30.

14 MAY 30TH.

15 THE COURT: ALL RIGHT. MAY 30 AT 1:30 THEN?

16 MR. BOWMAN: YES, SIR, YOUR HONOR.

17 THE COURT: NOW, MR. DISHNER, THAT OBVIOUSLY IS
18 A VERY IMPORTANT PROCEEDING FOR YOU. I WOULD SUGGEST THAT
19 YOU GIVE MR. FABUS YOUR FULL COOPERATION --

20 THE DEFENDANT: YES, SIR.

21 THE COURT: -- SO THAT HE CAN PROPERLY PREPARE
22 FOR THAT HEARING, ALL RIGHT.

23 ALL RIGHT. THEN IT'S SET FOR MAY 30 AT 1:30,
24 AND I THINK THAT CONCLUDES OUR BUSINESS IN THIS CASE
25 TODAY.

1 MR. BOWMAN: THANK YOU.

2 THE COURT: THANK YOU ALL VERY MUCH.

3 (PROCEEDING IS CONCLUDED AT 1:56 P.M.)

4 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
5 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

6

7

KAREN J. BRADLEY/S
8 SIGNATURE OF COURT REPORTER

09/17/18
DATE

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